

August 24, 1978

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)

Complainant,)

vs.)

PCB 77-84

PAUL SAUGET, individually, SAUGET AND)
COMPANY, a Delaware corporation, EAGLE)
MARINE INDUSTRIES, INC., a Missouri)
corporation, and RIVER PORT FLEETING)
INC., a Missouri corporation,)

Respondents.)

MR. WILLIAM J. BARZANO, JR., ASSISTANT ATTORNEY GENERAL, APPEARED
ON BEHALF OF THE COMPLAINANT.

MR. HAROLD BAKER APPEARED ON BEHALF OF THE RESPONDENTS.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed March 16, 1977 by the Environmental Protection Agency (Agency). An amended complaint was filed August 5, 1977. The amended complaint alleges that Respondents Paul Sauget and Sauget and Company, operated a refuse disposal site of approximately 35 acres located in Township 2 North, Range 10 West of 3rd Principal Meridian, Centreville Township, St. Clair County, Illinois. The site is located partly within the limits of the Village of Sauget, Illinois and lies adjacent to the Mississippi River. It further alleges that the remaining Respondents presently own portions of the site. The amended complaint alleges that the site was run in such a manner as to violate Rule 305(c) of the Chapter 7: Solid Waste Regulations and Section 21 of the Act, Rule 203(a) of the Chapter 3: Water Pollution Regulations (Chapter 3) and Sections 12(a), 12(d) and 9(c) of the Environmental Protection Act (Act), and Rule 5.07(b) of the Public Health Regulations and hence a violation of Section 21(b) of the Act.

Upon a motion by complainant, Respondents, Eagle Marine Industries, Inc. and River Port Fleeting, Inc., were dismissed by a Board order of March 16, 1978. A hearing was held on June 20, 1978 at which the remaining parties presented a stipulation to the Board for acceptance. No testimony was given.

The stipulated agreement provides the following facts. Paul Sauget is an officer and principal owner of Sauget and Company. At all times pertinent until November 15, 1973 Sauget and Company was authorized to transact business in Illinois. Beginning in the fall of 1959 and continuing each and everyday to on or about April 26, 1973, Sauget and Company operated a refuse disposal site located at the site in question.

Eagle Marine Industries, Inc. presently owns a portion of said refuse disposal site formerly operated by Sauget and Company. River Port Fleeting, Inc. also presently owns a portion of the said disposal site. These Respondents agreed by stipulation to allow access to the site to remedy the situation and were dismissed by a previous Board order.

The stipulation further provides that Paul Sauget and Respondent Sauget and Company have failed to place a final cover of at least two feet of suitable material over the entire surface of all completed portions of the refuse site. Cover which Respondents believed to be acceptable or suitable, or both, has been placed on the site although the Agency gave notice to the contrary. Final cover should have been placed upon the site prior to October 26, 1973.

In PCB 71-29, which the parties agreed should be incorporated into this proceeding, the Board accepted testimony that Paul Sauget had been given permission by the Director of the Illinois, Department of Public Health to use cinders as cover material. Thus for the purposes of the stipulation the parties agreed that cinders used by the Respondents as cover material prior to the Board decision in PCB 71-29 on May 26, 1971 are accepted as cover material but not for that portion of the site operated after May 26, 1971. Cinders shall not be used hereafter as cover material by Respondents.

At the disposal site, refuse was deposited commencing in the northern portion of the site in 1959 and continuing thereafter in a southerly direction. The parties agree that the 1966 operating face shall be deemed to have been a straight line perpendicular to the levee running along the road at the south end of Union Electric's fly ash pond. It is further agreed that the 1971 operating face shall be deemed to have been a straight line parallel to and 1200 feet southerly of the 1966 operating face.

Paul Sauget and Sauget and Company admit the allegations contained in paragraph 15 of Count V of the Amended Complaint, in that each of them, since October 26, 1973, has failed to place a compacted layer of at least two feet of suitable material over the entire portion of the refuse disposal site operated by them. They do not necessarily admit that final cover has not been placed upon the refuse disposal site, there having heretofore been disputes concerning the depth or the suitability, or both, of the final cover. These Respondents agree to place two feet of suitable cover material on said site in accordance with Rule 5.07(b) of the Rules and Regulations for Refuse Disposal Sites and Facilities. The stipulation provides a more detailed plan for placement of final cover. The stipulation provides that the final cover shall be of the quality agreed upon by the parties in May, 1978. If

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there is any change in cover the Agency shall be notified. The agreement also provides conditions under which the time in which Respondents are to meet their obligations may be extended beyond the thirty (30) months stipulated for completion.

Respondents agree to file a performance bond of \$125,000.00 with the Agency. Respondents also agree to a penalty of \$5,000.00 to be paid in two monthly installments of \$2,500.00 per month. All other allegations shall be dismissed with prejudice.

The Board finds the stipulated agreement acceptable under Procedural Rule 331. The Board finds Respondents, Paul Sauget and Sauget and Company, in violation of Rule 5.07(b) of the Public Health Regulations and Section 21(b) of the Act. The remaining allegations are dismissed. In light of Section 33(c) of the Act the stipulated penalty of \$5,000.00 is appropriate. This is assessed jointly and severally. Respondents did have notice of cover requirements because of the previous enforcement case PCB 71-29 and considerable time has passed since the cover should have been applied. The Agency's definition of "suitable material" included in Exhibit A is acceptable for the purposes of the stipulated agreement.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the order of the Pollution Control Board that:

1. Paul Sauget and Sauget and Company are found to be in violation of Rule 5.07(b) of the Public Health Regulations and Section 21(b) of the Act. The remaining allegations are dismissed.
2. Respondents shall comply with all the provisions of the stipulation incorporated by reference as if fully set forth herein. Respondents shall file a performance bond with the Agency in the amount of \$125,000.00. Respondents shall jointly and severally pay a penalty of \$5,000.00 pursuant to the terms of the stipulated agreement. Payment shall be by certified check or money order payable to:

Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24th day of August, 1978 by a vote of 5-0.

Christian L. Moffett
Christian L. Moffett, Clerk
Illinois Pollution Control Board

Case: ENVIRONMENTAL PROTECTION AGENCY v. PAUL SAUGET, individually,
and SAUGET AND COMPANY, a Delaware Corporation.

File #: 3602

By: Don Means

I. DESCRIPTION OF FACILITY

The facility which is the subject of this enforcement action is a refuse disposal site located near the Mississippi River in St. Clair County, Illinois (pp. 1, 11). The site is located in Centreville Township (T2N, R10W of the 3rd principal meridian) and lies partly within the limits of the Village of Sauget (p. 1). The total area of the site is approximately thirty-five acres (p. 24). Immediately to the west of the site is the Mississippi River (p. 1). A Union Electric power plant is located to the north of the site (reference: information provided by Pat McCarthy). Also to the north of the site is a dumping site for toxic chemicals operated by the Monsanto Company (reference: information provided by Pat McCarthy). The tracks of the Alton and Southern Railroad intersect the site from northeast to southwest (p. 1). To the east of the site is the levee and Gulf Mobile and Ohio railroad tracks (p. 1). This site had begun operation by at least 1967 (p. 3). The site accepted general refuse (p. 8). Cinders were used as cover (pp. 230, 272). The site was totally inundated by flood waters from the Mississippi in the spring of 1973 (pp. 134-139).

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That portion of the site south of the Alton and Southern tracks was not operated after the flood (p. 260). The northern portion was permanently closed some time after August 21, 1974 (p. 284). The site currently is not in operation, nor has it received adequate final cover (p. 302). In September, 1976, a fire occurred at the site, and refuse smoldered underground for at least two weeks (pp. 301-314).

During most of the time of the operation of this site, the land was owned by Cahokia Trust Properties of Cahokia, Illinois (p. 55). On April 2, 1973, the property was sold to Notre Dame Fleeting and Towing Service, Inc., which later was merged into Eagle Marine Industries (pp. 43, 55). Eagle Marine was probably instrumental in the cessation of the unpermitted operation of this site (pp. 112, 113, 285).

The operation of the site was conducted by Sauget and Company (Sauget). Sauget is a Delaware corporation which until November 15, 1973 was authorized to do business in the State of Illinois (pp. 57 and 58). On November 15, 1973, the Secretary of State of the State of Illinois revoked the authority of Sauget to transact business in Illinois for failure to file its annual report and pay its annual franchise tax (pp. 57 and 58). Since November 15, 1973, Sauget has been doing business in Illinois without a Certificate of Authority. Paul Sauget is an officer of Sauget and Company and a principal owner (reference: information provided by Pat McCarthy). Because of his personal involvement in the operation of this facility, he should be named as an individual respondent.

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II. DESCRIPTION OF POLLUTION SOURCE

The primary cause of pollution at this facility is the lack of adequate final cover. All refuse has not received at least two feet of cover as required by Rule 305(c) of Chapter 7. Additionally, the cover which has been applied is not a suitable material. Cinders have been used as cover instead of well-compacted clay or earth. As a consequence, three sorts of pollution occur:

1. Surface water infiltrates the refuse, causing the generation of leachate which migrates into the groundwater and hence into the Mississippi River.
2. When the Mississippi River is up, as in the spring of 1973, refuse is carried into the River.
3. Surface fires, such as the one which occurred in September of 1976, ignite underground refuse, causing a smouldering, smoky fire which is very difficult to extinguish.

III. PREVIOUS AGENCY INVOLVEMENT

The site was registered with the Department of Public Health on March 6, 1967 (pp. 3-5). An application for a permit was submitted to the Agency on February 7, 1972 (pp. 6-11). The application was denied on March 9, 1972 (p. 12). Another application was made on July 3, 1972 (pp. 13-28). This application was denied on August 7, 1972 (pp. 29-33). A request to reactivate the application and supplemental material were submitted to the Agency on August 1, 1974 (pp. 41-48). The application was again denied on September 16, 1974 (pp. 51-53). No further attempts to obtain a permit have been made.

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Sauget was ordered by the Pollution Control Board on May 26, 1971 to pay a penalty of \$1,000 for violations in operations on a portion of the facility (PCB 71-29). Sauget was also ordered at that time to cease using cinders for cover.

The Agency has sent many letters to Sauget since it began inspecting the facility which included notification of violations observed at the site. Since April 26, 1972 many letters have advised Sauget of its failure to provide adequate final cover in required areas (pp. 60-119).

Agency personnel have spoken to Paul Sauget on several instances (pp. 112, 134, 135, 141, 290, 301, 310). On January 21, 1975, he orally agreed to the need for final cover at the site and indicated his intent to provide it (p. 290). On September 8, 1976, and September 15, 1976, he acknowledged his responsibility for the fire then burning on the site and stated that he would take corrective action (pp. 301-310).

IV. VIOLATIONS

1. (a) Chapter 7 - Rule 305(c) provides that a compacted layer of not less than two feet of suitable material shall be placed over completed portions of a landfill, not later than sixty (60) days following the final placement of refuse.

(b) Proof - Disposal operations were discontinued at the site some time before January 21, 1975 (p. 289). Under Rule 305(c), completion of final cover was required over the entire site before March 22, 1975. However, Agency inspections reveal that final cover is not yet complete (p. 311). Final cover was required even earlier

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on specific areas of the site where dumping had ceased earlier (e.g., p. 140). In other words, the site has been in violation of Rule 305(c) for years. On March 8, 1974, an inspection of the site was conducted for the purpose of determining how much final cover was in place at the site (pp. 271-275). The inspection disclosed that cover varied in depth from 4" to 12" and consisted entirely of cinders (p. 272). Five photographs verify these findings (pp. 273-275). A similar inspection was conducted on January 26, 1976 (pp. 292-300). This inspection disclosed that the southern portion of the site had cover of dirt rather than cinders, but that it was only two to three inches in depth (p. 293). It also disclosed that conditions on the northern portion were similar or identical to those observed on March 8, 1974 (p. 293). Also, much refuse was observed with no cover (p. 293). Photographs were also taken during this inspection (pp. 296-300). The site was visited most recently on September 27, 1976, at which time it had yet received adequate final cover (p. 314).

(c) Dates - From on or before March 22, 1975, to the filing of the complaint, final cover has been required over the entire site, and from even earlier on portions of the site (see proof, above).

2. (a) Chapter 3 - Rule 203(a) provides that all waters of the State shall be free from unnatural bottom deposits, oil, and floating debris, and Section 12(a) of the Environmental Protection Act provides in relevant part that no person shall cause or threaten or allow the discharge of any contaminants into the environment so as to violate regulations adopted by the Board.

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(b) Proof - In the spring of 1973, the Mississippi River rose and inundated the subject site (pp. 134-228). All refuse previously deposited which had not received cover then became either a bottom deposit or floating debris in the Mississippi River. Also during this time Sauget caused refuse to be dumped into the water on the site (pp. 140, 141, 144, 146, 204, 208, 209, 235). Receding flood waters carried refuse off the site and into the main channel of the Mississippi (pp. 199, 202, 213, 223A). Refuse from the site was observed to have been carried at least two miles downstream (pp. 147-148). Many photographs were taken during this period which show debris in the water (pp. 153-175, 178-187, 189-192, 195-198, 200-202, 205-207, 214-222, 224-226, 228, 232-234). The violation of Rule 203(a) of Chapter 3 is also a violation of Section 12(a) of the Act.

(c) Dates - The initial observation of the site during the period of the flood occurred on March 26, 1973 (pp. 134, 140). Flood conditions persisted through at least May 11, 1973 (pp. 227-228) and refuse was observed in water until at least October 17, 1973 (p. 243).

3. (a) Section 12(d) of the Act provides that no person shall deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

(b) Proof - See proof of violation of Rule 203(a) of Chapter 3 above. Also, because of the inadequacy of final cover, there is a great hazard that leachate will be generated and will migrate into the

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4. (a) Section 9(c) of the Act provides that no person shall cause or allow the open burning of refuse.

(b) Proof - On September 8, 1976, a fire was observed on the subject site (pp. 301, 311). It had started at the north end of the site in some piles of openly dumped demolition refuse and had spread across the vegetation growing in the thin cover over the northern portion of the site (p. 311). The fire on the surface ignited the refuse underground, due in part to refuse protruding through the thin cover and in part to rat holes on this area of the site (p. 311). The site was again observed on September 9, 1976, and was still burning (pp. 302-303). Several photographs taken on September 9, 1976 show evidence of burning (pp. 304-309). The site was visited again on September 15, 1976, and on September 27, 1976, and found to be burning each time (pp. 310-314).

(c) Dates - Open burning of refuse occurred at the site from on or before September 8, 1976, until at least September 27, 1976 (pp. 301, 314).

The best solution to the pollution problems presented by this

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Two feet of well-compacted, relatively impermeable earthen material will protect the refuse from encroaching flood waters. Observation of the site during the 1973 flood indicated that refuse which had been covered was much less likely to be washed out and carried into the channel of the Mississippi. Also proper cover will inhibit the formation of leachate and the ignition of underground refuse by surface fires.

The only technological difficulty that might arise at this facility is extinguishing an underground fire should it be found that such a fire continues to burn there. If so, the smoldering refuse will have to be excavated and dragged through water to ensure that the fire is totally extinguished.

The cost of these solutions is likely to be quite high, particularly in light of the shortage of cover material on the site. The field staff estimates that approximately 100,000 cubic yards of earthen material will be needed to properly cover the site pursuant to Rule 305(c) of Chapter 7. It is estimated (conservatively) that \$2.00 per cubic yard would be necessary to haul in earthen material, bringing the cost of covering to about \$200,000. In addition, the Agency will probably request that monitoring wells be installed in certain areas.

VI. WITNESS LIST

1. Pat McCarthy
Division of Land Pollution Control
Field Operations Section
Collinsville, Illinois

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2. Kenneth Mensing
Division of Land Pollution Control
Field Operations Section
Collinsville, Illinois
3. Bill Child
Division of Land Pollution Control
Field Operations Section
Aurora, Illinois
4. Andy Vollmer
Division of Land Pollution Control
Springfield, Illinois
5. Michael G. Neumann
Division of Water Pollution Control
6. James Kammuehler
Division of Water Pollution Control
7. Donald Chrismore
St. Louis District
U.S. Army Corps of Engineers
8. Louis Benzek
St. Louis District
U.S. Army Corps of Engineers

(Reference may be made to pages 315-323 for qualifications of Agency witnesses).

VII. RELIEF

1. The pleadings should request the maximum penalty under Section 42 of the Act. In the event of a settlement, a penalty in the range of \$5,000-\$10,000 should be sought.

2. The Board should be requested to order that Sauget cease and desist from all violations within 60 days of the date of the Board's Order. A performance bond in the amount of \$200,000 should be obtained to ensure compliance with the Order.

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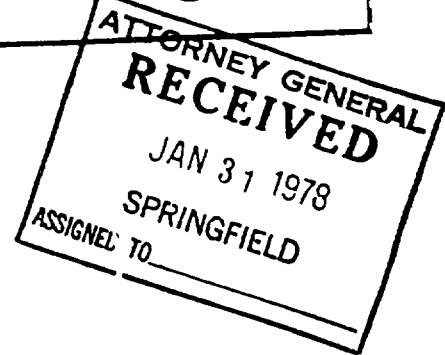
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Illinois Environmental Protection Agency

(217) 782-9469

January 26, 1978



Ms. Ann L. Carr
Assistant Attorney General
Environmental Control Division
Southern Region
Attorney General's Office
State of Illinois
500 South Second Street
Springfield, IL 62706

RE: EPA vs. Paul Sauget
et al: PCB 77-84
St. Clair County
Sauget/Sauget

Dear Ann:

The test results show that all the materials proposed are unacceptable as cover. The permeability (K) alone is sufficient to determine this factor. All materials tested are 9.92×10^{-3} or greater. This is unacceptable as it will result in large amounts of infiltration into the refuse below the cover. This would lead to increased leaching of contaminants from the refuse.

In addition, Table II shows that all materials tested are rich in heavy metals as analyzed by atomic absorption. The result of lead and zinc would cause some of the samples to be considered as a special waste by our Hazardous Waste Unit. These materials would require a supplemental permit for landfill deposition.

Respectfully,

William C. Child
Manager, Field Operation Section
Division Land Pollution Control

WCC:dsd
cc: Tom Chiola
Ken Mensing
Scott Miller

2200 Churchill Road, Springfield, Illinois 62706

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